

## **EXHIBIT B**

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Attorneys for Defendant U.S. Bank Trust National Association,  
in its capacity as Indenture Trustee

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

FINISAR CORPORATION, a Delaware  
corporation,

Plaintiff,

v.

U.S. BANK TRUST NATIONAL  
ASSOCIATION, a national banking  
association, not in its individual capacity,  
but solely in its capacity as Indenture  
Trustee on behalf of all Holders of Finisar  
Corporation's 5¼% Convertible  
Subordinated Notes due 2008, 2½%  
Convertible Senior Subordinated Notes due  
2010, and 2½% Convertible Subordinated  
Notes due 2010, and DOES 1 through 10,  
inclusive,

Defendants.

Case No. C 07-4052 JF (PVT)

**DEFENDANT U.S. BANK TRUST  
NATIONAL ASSOCIATION'S RESPONSE  
TO PLAINTIFF FINISAR  
CORPORATION'S FIRST SET OF  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS**

Complaint Filed: June 22, 2007  
Trial Date Set: None Yet  
Judge: Honorable Jeremy Fogel

FILED 10 3008

Defendant U.S. Bank Trust National Association's Response to Plaintiff  
Finisar Corporation's First Set of Requests for Production of Documents

CASE NO.: 5:07-CV-04052-JF-PVT

1 For its responses and objections to Plaintiff Finisar Corporation's First Set of Requests  
2 for Production of Documents to Defendant, U.S. Bank Trust National Association ("U.S. Bank")  
3 states as follows:  
4

5 **PRELIMINARY STATEMENT, RESERVATION OF**  
6 **RIGHTS, AND CONTINUING GENERAL OBJECTIONS**

7 1. Nothing contained in any response to any category or topic shall be construed as  
8 an admission by U.S. Bank relative to the existence or nonexistence of any information, and no  
9 such response shall be construed as an admission respecting the relevance or admissibility of any  
10 information or the truth or accuracy of any statement or characterization contained in any  
11 category and topic.

12 2. U.S. Bank objects to the categories and topics to the extent they are cumulative or  
13 duplicative of information already obtained or obtainable in discovery in this case.  
14

15 3. U.S. Bank objects to every category and topic to the extent they seek the provision  
16 of information that is subject to the attorney-client privilege, work product privilege, or other  
17 privileges, on the grounds that privileged matter is exempt from discovery.

18 4. U.S. Bank objects to every category and topic to the extent that they seek  
19 information not known or reasonably available to U.S. Bank.  
20

21 5. U.S. Bank objects generally to every category and topic to the extent that they  
22 refer to "any," or "all," when a limited amount of such information would in many cases be  
23 sufficient, on the grounds that such a requirement makes the category or topic cumulative and  
24 duplicative, overbroad, and unduly burdensome.

25 6. U.S. Bank has made and will make reasonable efforts to object and respond to  
26 each category and topic as U.S. Bank understands and interprets them. If Finisar subsequently  
27

1 asserts any interpretation of any category or topic that differs from U.S. Bank's interpretation,  
2 U.S. Bank reserves the right to supplement its objections and responses.

3 7. The general objections set forth above, and the objections to specific categories  
4 and topics set forth below, are made as to the matters that are clearly objectionable from the face  
5 of the category or topic. These objections are made without prejudice to, or waiver of, U.S.  
6 Bank's right to object on all appropriate grounds to specific information sought during the  
7 course of the deposition.  
8

9  
10 **SPECIFIC OBJECTIONS AND RESPONSES TO DOCUMENT CATEGORIES**

11 **REQUEST NO. 1:**

12 ALL DOCUMENTS comprising, evidencing, or referencing any COMMUNICATIONS  
13 RELATING TO any of the INDENTURES.

14 **RESPONSE:**

15 U.S. Bank objects to this request on the grounds that it is vague, overly broad and unduly  
16 burdensome. To the extent it seeks information protected from discovery by the attorney-client  
17 privilege and the work product doctrine, U.S. Bank objects to this request. U.S. Bank objects to  
18 this request to the extent it seeks information that is confidential or subject to the privacy rights  
19 of persons not a party to this litigation. Subject to these objections and the general objections  
20 above, U.S. Bank will produce any non-privileged responsive documents that are reasonably  
21 available to it at a time and place agreed to by the parties.  
22

23 **REQUEST NO. 2:**

24 ALL DOCUMENTS comprising, evidencing, or referencing any COMMUNICATIONS  
25 RELATING TO any of the NOTES.  
26  
27  
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**RESPONSE:**

U.S. Bank objects to this request on the grounds that it is vague, overly broad and unduly burdensome. To the extent it seeks information protected from discovery by the attorney-client privilege and the work product doctrine, U.S. Bank objects to this request. U.S. Bank objects to this request to the extent it seeks information that is confidential or subject to the privacy rights of persons not a party to this litigation. Subject to these objections and the general objections above, U.S. Bank will produce any non-privileged responsive documents that are reasonably available to it at a time and place agreed to by the parties.

**REQUEST NO. 3:**

All DOCUMENTS RELATING TO any alleged DEFAULT.

**RESPONSE:**

U.S. Bank objects to this request on the grounds that it seeks information protected from discovery by the attorney-client privilege and the work product doctrine. U.S. Bank objects to this request to the extent it seeks information that is confidential or subject to the privacy rights of persons not a party to this litigation. Subject to these objections and the general objections above, U.S. Bank will produce any non-privileged responsive documents that are reasonably available to it at a time and place agreed to by the parties.

**REQUEST NO. 4:**

All DOCUMENTS RELATING TO any alleged EVENT OF DEFAULT.

**RESPONSE:**

U.S. Bank objects to this request on the grounds that it seeks information protected from discovery by the attorney-client privilege and the work product doctrine. U.S. Bank objects to

1 this request to the extent it seeks information that is confidential or subject to the privacy rights  
2 of persons not a party to this litigation. Subject to these objections and the general objections  
3 above, U.S. Bank will produce any non-privileged responsive documents that are reasonably  
4 available to it at a time and place agreed to by the parties.  
5

6 **REQUEST NO. 5:**

7 All DOCUMENTS comprising, evidencing, or referencing any COMMUNICATIONS  
8 RELATING TO either any alleged DEFAULT or EVENT OF DEFAULT.

9 **RESPONSE:**

10 U.S. Bank objects to this request on the grounds that it is vague, overly broad and unduly  
11 burdensome. U.S. Bank objects to this request on the grounds that it seeks information protected  
12 from discovery by the attorney-client privilege and the work product doctrine. U.S. Bank  
13 objects to this request to the extent it seeks information that is confidential or subject to the  
14 privacy rights of persons not a party to this litigation. Subject to these objections and the general  
15 objections above, U.S. Bank will produce any non-privileged responsive documents that are  
16 reasonably available to it at a time and place agreed to by the parties.  
17

18 **REQUEST NO. 6:**

19 All DOCUMENTS comprising, evidencing, or referencing any COMMUNICATIONS to  
20 or from any HOLDER or any other PERSON RELATING to any of the NOTES or  
21 INDENTURES.

22 **RESPONSE:**

23 U.S. Bank objects to this request on the grounds that it is vague, overly broad and unduly  
24 burdensome. To the extent it seeks information protected from discovery by the attorney-client  
25 privilege and the work product doctrine, U.S. Bank objects to this request. U.S. Bank objects to  
26 this request to the extent it seeks information that is confidential or subject to the privacy rights  
27

1 of persons not a party to this litigation. Subject to these objections and the general objections  
2 above, U.S. Bank will produce any non-privileged responsive documents that are reasonably  
3 available to it at a time and place agreed to by the parties.  
4

5 **REQUEST NO. 7:**

6 All DOCUMENTS comprising, evidencing, or referencing any reports made or provided  
7 by YOU to any HOLDER pursuant to Section 7.14 of the INDENTURES or otherwise.

8 **RESPONSE:**

9 U.S. Bank objects to this request on the grounds that it is vague, overly broad and unduly  
10 burdensome. U.S. Bank objects to this request to the extent it seeks information that is  
11 confidential or subject to the privacy rights of persons not a party to this litigation. To the  
12 extent it seeks information protected from discovery by the attorney-client privilege and the  
13 work product doctrine, U.S. Bank objects to this request. Subject to these objections and the  
14 general objections above, U.S. Bank will produce any non-privileged responsive documents that  
15 are reasonably available to it at a time and place agreed to by the parties.  
16

17 **REQUEST NO. 8:**

18 All DOCUMENTS comprising, evidencing, or referencing any and all notices of any  
19 DEFAULT provided by YOU to HOLDERS pursuant to Section 7.15 of the INDENTURES.

20 **RESPONSE:**

21 U.S. Bank objects to this request on the grounds that it is vague, overly broad and unduly  
22 burdensome. U.S. Bank objects to this request on the grounds that it seeks information protected  
23 from discovery by the attorney-client privilege and the work product doctrine. U.S. Bank  
24 objects to this request to the extent it seeks information that is confidential or subject to the  
25 privacy rights of persons not a party to this litigation. Subject to these objections and the general  
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1 objections above, U.S. Bank will produce any non-privileged responsive documents that are  
2 reasonably available to it at a time and place agreed to by the parties.

3 **REQUEST NO. 9:**

4 All DOCUMENTS RELATING TO, or upon which YOU base, the First Affirmative  
5 Defense alleged in the ANSWER.

6 **RESPONSE:**

7 U.S. Bank objects to this request on the grounds that it seeks information protected from  
8 discovery by the attorney-client privilege and the work product doctrine. Subject to these  
9 objections and the general objections above, U.S. Bank will produce any non-privileged  
10 responsive documents that are reasonably available to it at a time and place agreed to by the  
11 parties.  
12

13 **REQUEST NO. 10:**

14 All DOCUMENTS RELATING TO, or upon which YOU base, the Second Affirmative  
15 Defense alleged in the ANSWER.

16 **RESPONSE:**

17 U.S. Bank objects to this request on the grounds that it seeks information protected from  
18 discovery by the attorney-client privilege and the work product doctrine. Subject to these  
19 objections and the general objections above, U.S. Bank will produce any non-privileged  
20 responsive documents that are reasonably available to it at a time and place agreed to by the  
21 parties.  
22

23 **REQUEST NO. 11:**

24 All DOCUMENTS RELATING TO, or upon which YOU base, the Third Affirmative  
25 Defense alleged in the ANSWER.  
26  
27  
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**RESPONSE:**

U.S. Bank objects to this request on the grounds that it seeks information protected from discovery by the attorney-client privilege and the work product doctrine. Subject to these objections and the general objections above, U.S. Bank will produce any non-privileged responsive documents that are reasonably available to it at a time and place agreed to by the parties.

**REQUEST NO. 12:**

All DOCUMENTS RELATING TO, or upon which YOU base, the Fourth Affirmative Defense alleged in the ANSWER.

**RESPONSE:**

U.S. Bank objects to this request on the grounds that it seeks information protected from discovery by the attorney-client privilege and the work product doctrine. Subject to these objections and the general objections above, U.S. Bank will produce any non-privileged responsive documents that are reasonably available to it at a time and place agreed to by the parties.

**REQUEST NO. 13:**

All DOCUMENTS RELATING TO, or upon which YOU base, the Fifth Affirmative Defense alleged in the ANSWER.

**RESPONSE:**

U.S. Bank objects to this request on the grounds that it seeks information protected from discovery by the attorney-client privilege and the work product doctrine. Subject to these objections and the general objections above, U.S. Bank will produce any non-privileged

1 responsive documents that are reasonably available to it at a time and place agreed to by the  
2 parties.

3  
4 **REQUEST NO. 14:**

5 All DOCUMENTS RELATING TO, or upon which YOU base, the Sixth Affirmative  
6 Defense alleged in the ANSWER.

7 **RESPONSE:**

8 U.S. Bank objects to this request on the grounds that it seeks information protected from  
9 discovery by the attorney-client privilege and the work product doctrine. Subject to these  
10 objections and the general objections above, U.S. Bank will produce any non-privileged  
11 responsive documents that are reasonably available to it at a time and place agreed to by the  
12 parties.

13  
14 **REQUEST NO. 15:**

15 All DOCUMENTS RELATING TO, or upon which YOU base, YOUR denial in the  
16 ANSWER of the contentions by FINISAR in the COMPLAINT.

17 **RESPONSE:**

18 U.S. Bank objects to this request on the grounds that it seeks information protected from  
19 discovery by the attorney-client privilege and the work product doctrine. Subject to these  
20 objections and the general objections above, U.S. Bank will produce any non-privileged  
21 responsive documents that are reasonably available to it at a time and place agreed to by the  
22 parties.

23  
24 **REQUEST NO. 16:**

25 All DOCUMENTS RELATING TO, or upon which YOU base, the request in the "Prayer  
26 For Relief" in the ANSWER for the "[award to] the Trustee [of] the costs and expenses in this  
27 action, including but not limited to reasonable attorneys' fees."

**RESPONSE:**

U.S. Bank objects to this request on the grounds that it seeks information protected from discovery by the attorney-client privilege and the work product doctrine. Subject to these objections and the general objections above, U.S. Bank will produce any non-privileged responsive documents that are reasonably available to it at a time and place agreed to by the parties.

**REQUEST NO. 17:**

All DOCUMENTS comprising, evidencing, or referencing any agreements by FINISAR to pay to YOU any of YOUR costs, fees, or expenses RELATING TO YOUR duties as "Trustee" under the INDENTURES.

**RESPONSE:**

U.S. Bank objects to this request on the grounds that it seeks information protected from discovery by the attorney-client privilege and the work product doctrine. Subject to these objections and the general objections above, U.S. Bank will produce any non-privileged responsive documents that are reasonably available to it at a time and place agreed to by the parties.

**REQUEST NO. 18:**

All DOCUMENTS RELATING TO the amount of YOUR costs, fees, or expenses that RELATE TO YOUR duties as "Trustee" under the INDENTURES.

**RESPONSE:**

U.S. Bank objects to this request on the grounds that it seeks information protected from discovery by the attorney-client privilege and the work product doctrine. Subject to these objections and the general objections above, U.S. Bank will produce any non-privileged

1 responsive documents that are reasonably available to it at a time and place agreed to by the  
2 parties.

3  
4 **REQUEST NO. 19:**

5 All DOCUMENTS comprising any contract or other agreement (including specifically  
6 indentures or indenture agreements) pursuant to which YOU serve or have served as an  
7 indenture trustee and which contains any form of a clause, section, or other provision  
RELATING TO the provision to the indenture trustee of reports or other documents filed, or to  
be filed, with the Securities and Exchange Commission or other regulatory agency.

8 **RESPONSE:**

9  
10 U.S. Bank objects to this request on the grounds that it is vague, overly broad and unduly  
11 burdensome. U.S. Bank also objects on the ground that it is not reasonably calculated to lead to  
12 the discovery of admissible evidence. To the extent it seeks information protected from  
13 discovery by the attorney-client privilege and the work product doctrine, U.S. Bank objects to  
14 this request. U.S. Bank objects to this request to the extent it seeks information that is  
15 confidential or subject to the privacy rights of persons not a party to this litigation.

16  
17 **REQUEST NO. 20:**

18 All DOCUMENTS RELATING TO, or upon which YOU base, the request in the "Prayer  
19 For Relief" in the ANSWER for the "[award to] the Trustee [of] the costs and expenses incurred  
in this action, including but not limited to reasonable attorneys' fees."

20 **RESPONSE:**

21 U.S. Bank objects to this request on the grounds that it is repetitive – see Response to  
22 Request No. 16.

23  
24 **REQUEST NO. 21:**

25 All DOCUMENTS identified in YOUR response to the INTERROGATORIES.

**RESPONSE:**

U.S. Bank incorporates the objections it asserted in its Answer to Interrogatories. Subject to and without waiving these objections, U.S. Bank will produce any non-privileged responsive documents that are reasonably available to it at a time and place agreed to by the parties.

**REQUEST NO. 22:**

All DOCUMENTS identified in YOUR DISCLOSURES.

**RESPONSE:**

To the extent it seeks information protected from discovery by the attorney-client privilege and the work product doctrine, U.S. Bank objects to this request. U.S. Bank objects to this request to the extent it seeks information that is confidential or subject to the privacy rights of persons not a party to this litigation. Subject to and without waiving these objections, U.S. Bank will produce any non-privileged responsive documents that are reasonably available to it at a time and place agreed to by the parties.

**REQUEST NO. 23:**

All DOCUMENTS identified or referenced in the JOINT CASE MANAGEMENT STATEMENT.

**RESPONSE:**

To the extent it seeks information protected from discovery by the attorney-client privilege and the work product doctrine, U.S. Bank objects to this request. U.S. Bank objects to this request to the extent it seeks information that is confidential or subject to the privacy rights of persons not a party to this litigation. Subject to and without waiving these objections, U.S. Bank will produce any non-privileged responsive documents that are reasonably available to it at a time and place agreed to by the parties.

1  
2 Dated: 3-14, 2008

**MORRISON & FOERSTER LLP**

3  
4 By 

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**CERTIFICATE OF SERVICE**

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California 94105-2482; I am not a party to the within cause; I am over the age of eighteen years and I am readily familiar with Morrison & Foerster's practice for collection and processing of correspondence for mailing with the United States Postal Service and know that in the ordinary course of Morrison & Foerster's business practice the document described below will be deposited with the United States Postal Service on the same date that it is placed at Morrison & Foerster with postage thereon fully prepaid for collection and mailing.

I further declare that on the date hereof I served a copy of:

**DEFENDANT U.S. BANK TRUST NATIONAL  
ASSOCIATION'S RESPONSE TO PLAINTIFF FINISAR  
CORPORATION'S FIRST SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS**

☒ **BY U.S. MAIL [Code Civ. Proc sec. 1013(a)]** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing at Morrison & Foerster LLP, 425 Market Street, San Francisco, California 94105-2482 in accordance with Morrison & Foerster LLP's ordinary business practices.

I am readily familiar with Morrison & Foerster LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service, and know that in the ordinary course of Morrison & Foerster LLP's business practice the document(s) described above will be deposited with the United States Postal Service on the same date that it (they) is (are) placed at Morrison & Foerster LLP with postage thereon fully prepaid for collection and mailing.

☒ **BY ELECTRONIC SERVICE [Code Civ. Proc sec. 1010.6]** by electronically mailing a true and correct copy through Morrison & Foerster LLP's electronic mail system to the e-mail address(s) set forth below, or as stated on the attached service list per agreement in accordance with Code of Civil Procedure section 1010.6.

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11 I declare under penalty of perjury under the laws of the State of California that the foregoing  
12 is true and correct.

13 Executed at San Francisco, California, this 14th day of March, 2008.

14 Mary E. Land  
15 (typed)

16   
17 (signature)